

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JACK SHERMAN,

Plaintiff,

v.

No. 9:08-CV-913  
(FJS/DRH)

SUPERINTENDENT, MOHAWK CORRECTIONAL  
FACILITY,

Defendant.

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**APPEARANCES:**

**OF COUNSEL:**

JACK SHERMAN  
Plaintiff Pro Se  
01-b-1061  
Mohawk Correctional Facility  
Post Office Box 8451  
Rome, New York 13440

**FREDERICK J. SCULLIN, JR., Senior Judge**

**DECISION AND ORDER**

The above-captioned matter having been presented to me by the Report-Recommendation of Magistrate Judge David R. Homer filed on December 3, 2008, and the Court having reviewed the Report-Recommendation and the entire file in this matter, and the plaintiff having advised the Court that he has no objections to said Report-Recommendation, the Court hereby

**ORDERS**, that the Report-Recommendation of Magistrate Judge David R. Homer filed December 3, 2008 is **ACCEPTED** in its

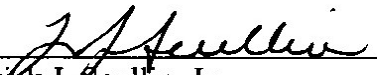
entirety, for the reasons stated therein, and the Court further

**ORDERS**, that plaintiff's petition is **DISMISSED** without prejudice, and the Court further

**ORDERS**, that the Clerk of the Court is to enter judgment in favor of defendant and **CLOSE** this case.

**IT IS SO ORDERED.**

DATED: December 18, 2008  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge